

UNITED STATES COURT OF APPEALS
for the Fifth Circuit

No. 93-8819
Summary Calendar

HAROLD S. THEODORE,
a/k/a Harold S. Theodorou,

Plaintiff-Appellant,

VERSUS

UNITED SERVICES AUTOMOBILE ASSOCIATION,

Defendant-Appellee.

Appeal from the United States District Court
for the Western District of Texas
(SA-92-CV-779)

(September 14, 1994)

Before DAVIS, JONES, and DUHÉ, Circuit Judges.

PER CURIAM:¹

Appellant Harold S. Theodore appeals from the trial court's decision which granted summary judgment to Appellee United Services Automobile Association (USAA). We dismiss Appellant's appeal for lack of jurisdiction. The judgment appealed from is not final.

FACTS

USAA employed Theodore from March 4, 1985 until August 2,

¹ Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

1991, after which it terminated Theodore's employment allegedly for unsatisfactory performance. Theodore filed a Charge of Discrimination with the Equal Employment Opportunity Commission (EEOC) alleging employment discrimination on the basis of national origin. The EEOC dismissed his claim. Theodore then filed this Title VII suit alleging employment discrimination on the basis of national origin, race, color, and religion. The court granted USAA's motion for summary judgment; however, the court limited its consideration to the national origin discrimination claim. Theodore appeals.

DISCUSSION

The district court had jurisdiction over all four theories of recovery stated in Appellant's Complaint. "[T]he 'scope' of the judicial complaint is limited to the 'scope' of the EEOC investigation which can reasonably be expected to grow out of the charge of discrimination." Sanchez v. Standard Brands, Inc., 431 F.2d 455, 466 (5th Cir. 1970). In Sanchez, the court allowed the district court complaint to include race and color as additional bases of discrimination even though the EEOC charge had only raised sex and national origin. In Appellant's case, he only addressed national origin in his Charge and added race, color, and religion in his Complaint. Appellant's additional assertions in his Complaint arise from a single instance of discrimination: his discharge from employment. The additional theories of discrimination he asserts could reasonably be expected to grow out of the original EEOC investigation. The district court had

jurisdiction of all four bases of discrimination alleged in Appellant's Complaint.

The district court's decision, however, only considered national origin. It did not take into account race, color, or religion. Under 28 U.S.C. § 1291, we may only review final judgments. A judgment that does not dispose of all issues in a case is not final. Brown v. New Orleans Clerks and Checkers Union Local No. 1497, 590 F.2d 161, 163-64 (5th Cir. 1979). We cannot review this case until the district court has entered final judgment on all the Appellant's theories of recovery.

For the foregoing reasons, Appellant's appeal is DISMISSED for lack of jurisdiction.